IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.147 of 1995
Date of decision:8.11.2006

The Commissioner of Income Tax, Jalandhar

....Petitioner

versus

The Executive Officer, Municipal Committee, Phagwara

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. NL Sharda, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal) arising out of its order dated 24.12.1993 in ITA No.500(ASR)/1993, for the assessment year 1989-90:-

> "Whether on the facts and in the circumstances of the case, the Tribunal is right in law in upholding the order of the Commissioner of Income Tax (Appeals) in reducing the penalty levied under section 272A(2)(c) of the Income Tax Act from Rs.25,432/- to Rs.500/- when the law prescribes only maximum and minimum limits and does not contain a provision for levy of a token penalty?"

The assessee filed its return in the prescribed form on 22.1.1991, though the last date was 31.5.1989. The assessee had, however, already paid the tax within the stipulated time. The Assessing officer imposed penalty. The CIT(A) having regard to admitted facts, imposed token penalty of Rs.500/-, which was upheld by the Tribunal.

Only contention raised on behalf of the revenue is that penalty had to be calculated at the rate of Rs.100/- per day under section 272A(2)(c) of the Income Tax Act, 1961 (for short, 'the Act') and could not be a token penalty.

In the present case, tax was duly deducted and paid in time, the violation was held to be only of technical nature and not deliberate or intentional. Reasonable cause having been shown for default, which is technical in nature, in our view, the Tribunal was right in upholding the order passed by the CIT(A) in reducing the penalty levied under section 272A(2)(c) of the Act.

The question is, accordingly, answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 8, 2006
'gs'

(Rajesh Bindal)
Judge